



Request for City Council Committee Action from the Department of Regulatory Services- License Division

Date May 21, 2008
To PSRS Chair Don Samuels

Subject: Amending Title 13, Chapter 320 of the Minneapolis Code of Ordinances relating to Vehicle Immobilization.

Recommendation

The Business License Division recommends that Chapter 320 of the Minneapolis Code of Ordinances relating to vehicle immobilization be ammended.

Prepared or Submitted by Richard J. Tufts, Inspector, Licenses and Consumer Services.

Ricardo Cervantes, Deputy Director, Licenses and Consumer Services.

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Ricardo Cervantes, Deputy Director

A handwritten signature in cursive script, appearing to read "Burt Osborne", is written over a horizontal line.

Burt Osborne, Director of Licenses

A handwritten signature in cursive script, appearing to read "Rocco Forte", is written over a horizontal line.

Rocco Forte, Assistant City Coordinator

Policy Review Group (PRG) Not Applicable X

Presenters in Committee: Richard J. Tuffs, License Inspector, Ricardo Cervantes, Deputy Director, Licenses and Consumer Services

Financial Impact

☒ No financial impact – or – Action is within current department budget

Background/Supporting Information Attached

Background information is under separate cover to be distributed at PSRS.

CHAPTER 320. VEHICLE IMMOBILIZATION SERVICE

320.10. Definitions. As used in this chapter:

Locking wheel boot. A mechanical clamp or boot which is professionally manufactured and designed to lock the front left wheel of a motor vehicle, thus making the vehicle immobilized, and preventing anyone but a key holder from removing it.

Vehicle immobilization. Use of a locking wheel boot that, when attached to the wheel of a vehicle, prevents free, self-propelled movement of the vehicle by the vehicle operator.

Vehicle immobilization service. A person, firm or corporation who at the request of a private property owner engages in the act of vehicle immobilization of vehicles that have been placed on a private parking lot without permission or without payment of a parking fee. (94-Or-046, § 1, 4-29-94)

320.20. License required. No person, firm or corporation shall provide motor vehicle immobilization services as described herein without being licensed under this chapter. (94-Or-046, § 1, 4-29-94)

320.30. License fee; expiration and renewal. The annual license fee shall be as established in Appendix J, License Fee Schedule, to be paid when the application is filed. All licenses shall expire on September first of each year subject to renewal year to year thereafter. (94-Or-046, § 1, 4-29-94; 98-Or-146, § 1, 12-4-98; 2002-Or-040, § 1, 5-17-02; 2002-Or-023, § 1, 4-5-02; 2002-Or-135, § 1, 9-27-02)

320.40. Application for license. Application for a license under this chapter shall be made on forms provided by the Department of Licenses and Consumer Services and shall contain such information as the department may require, including the following:

- (a) Name, date of birth, place of birth, and street address of the place where the applicant resides.
- (b) Street addresses of places where applicant has resided during the five (5) years preceding the date of application.
- (c) Whether applicant has been convicted of any crime or ordinance violation within the past ten (10) years preceding the date of application, including the specific charge, date of conviction, place of conviction, and sentence for such violation.
- (d) Whether applicant is a natural person, corporation, partnership or unincorporated association.
- (e) The street address and telephone number of the place where applicant proposes to operate the licensed business.
- (f) The private property locations where vehicle immobilization will be conducted and the persons authorized to order vehicle immobilization for each private property location. (94-Or-046, § 1, 4-29-94)

320.45. Requirements of licensee. In addition to any other applicable regulation

contained in this chapter or code, all vehicle immobilization service licensees and their employees shall operate in strict accordance with the following:

- (a) All licensees shall issue a uniform to its employees providing vehicle immobilization service. The uniform must consist of, at a minimum, a jacket, a shirt or a vest. The uniform must clearly list the name of the company providing vehicle immobilization service. The uniform must clearly identify the employee providing vehicle immobilization service. The employee identification can consist of either the employee's first and last name or the employee's first name with a code that is specific to that employee. This identification can be included on the uniform itself, or on a nametag that would be worn with the uniform. This uniform must be worn while the employee is providing vehicle immobilization service.
- (b) All licensees shall issue to its employees business cards that accurately reflect the employee's supervisor's name, business address and telephone number, as well as, the telephone number to be called to have the wheel locking device removed. A business card, complying with this section, must be provided to an individual upon request.
- (c) The licensee shall provide training in conflict management for its employees that install vehicle immobilization devices or have contact with those individuals who have been immobilized and shall provide documentation as to the content of the training and documentation as to the completion of that training to the director of licenses and consumer services. The director of licenses and consumer services, or its designee, shall review that documentation and may require additional training. For current and existing licensees and employees of licensees, this requirement shall be met within six (6) months of the date of passage of this ordinance. For new licensees, this requirement shall be met prior to the approval of the license by the city. For new employees, this requirement shall be met before the employee either installs a vehicle immobilization device or has contact with an individual who has been immobilized, without the supervision of an employee who has received this training, or within three (3) months of the date of their hire whichever comes first. (2005-Or-034, § 1, 4-29-05; 2005-Or-127, § 1, 11-18-05)

320.50. Rules of operation. In addition to any other applicable regulation contained in this chapter or code, all vehicle immobilization service licensees and their employees shall operate in strict accordance with the following:

- (a) Prior to installing a locking wheel boot on any motor vehicle at the request of someone other than the vehicle's owner, the vehicle immobilization service licensee shall determine that the parking lot has entrance warning signs which are in compliance with Chapter 319.230(f) of this code, and that in the case of Class A commercial parking lots, have an ample supply of self service fee payment supplies such as envelopes, pencils, instruction signs, and other common equipment. In the event that the parking lot lacks any such items, vehicle immobilization shall be prohibited.
- (b) The person authorizing the vehicle immobilization must be an owner of the property, or the license holder of the parking lot license for the property, or a bona fide employee of the owner or parking lot license holder, or a duly licensed protective agent, licensed under Minnesota Statutes, Chapter 326, hired by the owner or parking lot licensee, or a vehicle immobilization service licensee or

employee pursuant to section 320.50 (e)(2) of this Code.

- (c) Vehicle immobilization service licensees shall use a printed order form that includes the name, address and telephone number of the licensee's business. A completed order form must include the name of the natural person authorizing the service, set forth in paragraph (b). The name of the person authorizing the service, and the date and time that the service was provided, must be stamped on the form. The person authorizing service shall sign the completed order form. The order form shall also include the name of the person installing the locking wheel boot, the location where the service is being provided, and a description of the vehicle to be immobilized. The vehicle immobilization service licensee shall have this authorized order form signed, fully completed and in personal possession before installing the locking wheel boot. The amount charged for the service, including any parking fees due, shall be included on this order form and a copy of this form shall be given to the person reclaiming the vehicle. All of the information on the order form must be legible. The original copy of the completed order forms shall be maintained at the licensee's place of business for a period of not less than two (2) years and shall be made available for review by the Director of Licenses and Consumer Services or their designated representative during all common and reasonable business hours.
- (d) Vehicle immobilization service licensees shall have a process for handling complaints that arise from their immobilization of vehicles. On the back of the printed order form set forth in paragraph (c), a vehicle immobilization service licensee shall include information on how to file a complaint with the licensee. The back of the printed form must also include that a complainant may contact the City of Minneapolis' Department of Licenses and Consumer Services at (612) 673-2080 if a complaint is not resolved.
- (e) Parking Lot Patrol Activities.
 - (1) Except as provided in paragraph (e)(2), vehicle immobilization service licensees shall not perform parking lot patrol activities. Parking lot patrol activities shall be defined to include, but not limited to, determining which vehicles have not paid a parking fee or which vehicles are on the premises without the property owners' permission. Vehicle immobilization service licensees shall not enter a parking lot for the purpose of immobilizing a vehicle unless requested by the natural person authorizing the service, set forth in paragraph (b). Vehicle immobilization service licensees shall not have any employee waiting in any parking lot for which they are providing immobilization services. Waiting shall be defined to include any time in which the employee is not actively involved in providing vehicle immobilization services.
 - (2) A vehicle immobilization service licensee may perform parking lot patrol activities and may authorize immobilization provided that the licensee obtains a written and signed agreement from the owner of the property, or the license holder of the parking lot license for the property. The written agreement must detail when the vehicle immobilization service licensee is permitted to be on the property and the extent of the monitoring that will be done by the immobilization licensee. A copy of the agreement must be filed with the Department of Licenses and Consumer Services. The Director of Licenses and Consumer Services may reject any agreement that does not comply with the provisions of this section. If

an agreement is rejected, a licensee cannot perform parking lot patrol activities until an agreement is filed that complies with this section. Whenever any changes are made to the written agreement, a new copy of that agreement must be filed with the Department of Licenses and Consumer Services. A vehicle immobilization service licensee that is performing parking lot patrol activities must comply with paragraph (n) of this section.

- (f) The licensee shall maintain a chronological log or record of the vehicles that have been immobilized. The log shall indicate a description of the vehicle, location that the service was performed, time of service, and time of vehicle release. A copy of this log or record shall be delivered to the Director of Licenses and Consumer Services each month.
- (g) Immediately upon installing the locking wheel boot, a blaze orange warning decal at least forty-seven (47) square inches in size shall be prominently placed in the center of the drivers side window or on the front windshield directly in front of the vehicle steering wheel. The specific language on the warning sign shall be subject to approval by the Director of Licenses and Consumer Services and shall clearly and legibly inform the operator of the vehicle that a locking device has been installed on the front left wheel of the vehicle and that attempting to move the vehicle will cause serious damage to the vehicle. This decal shall display the telephone number and address of the licensee. Upon payment of the service fee, the licensee shall offer to remove the decal and shall have in possession the appropriate materials needed to remove all parts of the decal and residue.
- (h) Vehicle immobilization service licensees shall maintain a telephone line that is answered by a natural person whenever an employee, officer or agent of a licensee is working, and/or a locking wheel boot is attached to a vehicle. The licensee is required to ensure that this telephone number is accurately printed on the warning decal attached to the vehicle. In addition, the licensee shall ensure that no inaccurate phone numbers are displayed on signs at the parking lot location where the vehicle immobilization occurred, on the business cards required by section 320.45 (b), or on any other medium that is viewable by the public.
- (i) Vehicle immobilization service licensees shall respond to a request to remove a wheel-locking device within sixty (60) minutes. If a licensee does not appear to remove the wheel-locking device within sixty (60) minutes of a customer request, the locking device shall be removed at no charge.
- (j) Vehicle immobilization service licensees shall not install a wheel locking boot on any vehicle displaying tax exempt plates, any marked emergency vehicle, any United States military vehicle, or any vehicle displaying a handicap vehicle permit without a Minneapolis police officer being present and duly notified.
- (k) To prevent personal injury, damage to property, disorderly conduct, or other criminal activity, vehicle immobilization service licensees shall comply with all police officers' requests to remove a wheel-locking device and shall remove the wheel-locking device at no cost.
- (l) In the event that a vehicle is not claimed within twenty-four (24) hours, the licensee shall notify the Minneapolis impound lot of the vehicle's description and location. If the vehicle was reported as stolen, the licensee, at the direction of a police officer, shall remove the vehicle immobilization device free of charge.

- (m) The vehicle immobilization service licensee may not attempt to collect service fees or parking lot fees after a vehicle has been impounded by a Class A motor vehicle service licensee.
- (n) If a parking lot is being monitored by a vehicle immobilization service licensee or an employee or agent of the licensee, for the purpose of determining which vehicles are parked illegally, the licensee and the individual performing the monitoring must comply with this section.
 - (1) During those times when the vehicle immobilization service licensee or agent of the licensee is actively monitoring the parking lot, the vehicle immobilization service licensee must provide a general notification that the parking lot is being actively monitored. That general notification must consist of a sign at each entrance for the lot. The signs must be a minimum of eighteen (18) inches by eighteen (18) inches. The signs must inform the public that the lot is being actively patrolled. The language and placement of the signs shall be subject to approval by the director of the department of licenses and consumer services or the director's duly authorized representative.
 - (2) The vehicle service licensee shall not permit an individual unable to provide information as to the acceptable use of the parking lot to monitor the parking lot.
 - (3) The individual monitoring the parking lot must remain visible in the parking lot while the parking lot is being actively monitored. While the individual is monitoring the lot, the individual shall wear a uniform as required in section 320.45(a).
 - (4) The individual monitoring the parking lot shall provide accurate information to any individual who asks as to the acceptable use of the parking lot, the name of the company providing the vehicle immobilization service and the address and telephone number of the office of the vehicle immobilization service company.
 - (5) If the individual monitoring the parking lot is able to determine that the driver of a vehicle has parked in a manner that would permit the vehicle to be immobilized, prior to that driver leaving the parking lot, and the individual monitoring the parking lot has a reasonable opportunity to warn that driver, that individual shall inform the driver that the vehicle must be moved or it will be immobilized.
- (o) A vehicle shall not be immobilized if there is not compliance with this chapter. (94-Or-046, § 1, 4-29-94; 2005-Or-034, § 2, 4-29-05)

320.60. Insurance required. Each applicant for a vehicle immobilization service license under this chapter shall at all times keep in full force and effect a public liability insurance policy written by an insurance company authorized to do business in the State of Minnesota, in the following amounts: One hundred thousand dollars (\$100,000.00) for injury or death to one person, three hundred thousand dollars (\$300,000.00) for each injury or death from each occurrence, and twenty-five thousand dollars (\$25,000.00) for property damage. Proof of the required insurance policy must be submitted on forms provided by the Department of Licenses and Consumer

Services. (94-Or-046, § 1, 4-29-94)

320.70. Service fee. The maximum service fee for vehicle immobilization shall not exceed seventy-five percent (75%) of the fee charged for a tow by the City of Minneapolis impound facility plus any commercial parking lot fees due. Vehicle immobilization service licensees shall honor all forms of payment currently accepted by the City of Minneapolis impound facility. (94-Or-046, § 1, 4-29-94)

320.80. Denial, suspension and revocation. Any license under this chapter may be denied, suspended or revoked for violating any section of this chapter or code. (94-Or-046, § 1, 4-29-94)

320.90. Remuneration prohibited. (a) It is unlawful for a licensee to pay or offer to pay any remuneration to a person for providing vehicle immobilization service pursuant to that person's authorization.

It is unlawful for any person authorizing vehicle immobilization service to receive or to solicit remuneration from a licensee for providing that service pursuant to that person's authorization. (2005-Or-034, § 3, 4-29-05)

Public Safety & Regulatory Services Committee
Title 13, Chapter 320 Vehicle Immobilization
Staff Report
May 21, 2008

History:

The vehicle immobilization ordinance, more commonly known as booting, was first introduced to the Public Safety & Regulatory Services Committee on April 20, 1994. At this time one company was booting vehicles in Minneapolis. Without a booting license, the city was unable to regulate this industry. The city had to create a license category or ban the practice. Booting was authorized in other cities to address issues such as scofflaws, DUIs, and/or child support. Chapter 320, Vehicle Immobilization, was added to the Minneapolis Code of Ordinances.

From 1994 to 1997, five (5) booting companies applied for licenses. In September 1997 only one company, Gopher Towing, was still in business. Records are not available regarding the operation of these companies.

Since 2000, a number of new licenses have been issued to booting companies. In 2000, booting companies could not park in a lot and monitor activity. They could only respond to a call for service by the owner of the parking lot. Booting companies found it easier, and certainly more profitable, to park in a lot, monitor it themselves, and boot vehicles. Thus the term "Predatory Practices" was used to identify the behavior of the booting industry both in Minneapolis and throughout the United States. Other complaints included non-existent or improper signs, booting without proper authorization, charging unauthorized fees, intimidating behavior, and threatening to tow a vehicle if the customer did not pay immediately. All of these complaints still occur today.

In 2005, complaints were so numerous that the 2nd Precinct Community Response Team (CRT) conducted surveillance at several parking lots. They found booters parked inside the lots, booting vehicles, and then seeking written authorization by the business owners after the fact. All of these behaviors were in violation of the code of ordinances. When approached by the police, employees of the booting companies stated they had no knowledge or training regarding rules of operation. The following week a second employee of a particular company was found duplicating the same practices. He told police he knew the first employee had been warned about patrolling the lot and that it was a violation of ordinance. The police issued a Motor Vehicle Tampering citation. The profit margin far exceeds the fines associated with violations.

Later that year Council Member Paul Zerby made a recommendation to ban booting in Minneapolis. Instead of banning booting, staff was directed to create a Task Force to meet with the booting industry, revise the ordinance to eliminate the predatory practices, and develop stringent requirements aimed at eliminating illegal booting practices. Members of this Task Force included business owners and a consumer representative. It was assumed that the number of complaints would then decrease. In April, 2005,

numerous changes were made to the code of ordinances. Additionally, training was provided to all booting companies regarding the new requirements.

Enforcement:

The intended results of the 2005 ordinance amendments have fallen short of their mark. 52 citations have been issued to the six booting companies, totaling \$24,950 in fines. Over 300 complaints have been made. Every citation appealed has been reviewed by an Administrative Hearing Officer and upheld in favor of the city. Listed below is a summary of violations the six licensed companies have accrued since 2005.

Clampdown: (August, 2003 – September, 2007) This company received 16 administrative citations totaling \$11,600 and after a Technical Advisory Committee (TAC) hearing was directed to reimburse \$2000 in TAC fees and reimburse charges to all vehicles booted from October 1, 2005 to February 10, 2006. In March, 2006, additional violations occurred and their license was suspended for 30 days. In September 2006, License and Consumer Services' recommendation to deny renewal of Clampdown's license was approved by the city council.

Force Management: (July, 2000 to present) Nine (9) administrative citations totaling \$5,800 in fines have been issued. They received a written warning and five administrative citations for not posting a sign stating that a parking lot "is currently under surveillance and offenders will be booted immediately" and not removing the sign when they left the lot. They have also been cited for booting vehicles without proper authorization, booting a handicap vehicle without proper authorization, overcharging, and given a warning that it was illegal to boot for a traffic violation. The activities of this company generate more complaints than any other booting company. In one case, Force Management appealed a citation and it was determined at the hearing that the boot was illegal. The client sent a request for reimbursement to the company. Force management's attorney responded that the matter was fully adjudicated by an administrative hearing officer and since no refund was ordered, none was due. Even though the vehicle was booted illegally, Force Management will not issue a refund. The Licenses Division cannot enforce reimbursement of fees. The booted party's only option for reimbursement is to take Force Management to small claims court, diminishing the principles of the Administrative Hearing process established by the city.

Limited Space: (December, 2006 to present) Three administrative citations totaling \$600 in fines have been paid by this company. The owner is former employee of Clampdown and the license was issued with five conditions. In addition to conditions related to complying with the ordinance, no employee may have any involvement with the past owner or any former employees of Clampdown.

The former owner of Clampdown contacted the Licenses Division to discuss an agreement he had with his former employee, the current owner of Limited Space. He stated they had a partnership agreement in which he was to get 50% of Limited Space's booting revenue. The nature of the call was to complain that his former employee was violating this agreement. The caller submitted a Business Deposit Account Application

dated February 21, 2007. Both their names and signatures were listed on this document clearly in violation of the license conditions.

Parking Solutions Inc: (September, 2003 – September, 2007) This company received eight administrative citations totaling \$2,150 in fines and the city received numerous complaints. They paid their last fine of \$750 in a NSF check. This money has never been collected and the company is no longer in business.

Star Phoenix: (May, 2005 – September, 2006) In their year and a half in business, this company received eleven administrative citations totaling \$3,000 in fines to the city. Their violations included illegal signs while monitoring lots, sitting outside parking lots watching for vehicles, incorrect information of forms, failure to include the city's phone on their form for customers to file complaints, and submitting false monthly booting logs. They did not submit an application to renew their license.

Wrecker Services: (June, 2000 – Present) Three administrative citations totaling \$600 have been issued to this company. This was based on a single incident and the city has not had any further issues with Wrecker Services. Wrecker Services' primary business is towing and rarely uses boots to address parking violations.

Case History:

Examples of illegal booting activities in Minneapolis are noteworthy, varied, and repetitive. In one situation the booter blocked a moving vehicle with another vehicle in order to install a boot. On another occurrence the booter did not have a vehicle available to block the vehicle so a co-worker stood behind vehicle to prevent it from moving before the boot was secured. Other examples include the following:

A booting company was directed by the business owner repeatedly not to boot vehicles on Sundays or after 9:00 pm. when the business was closed. Since April 2007, 95 vehicles have been booted during these hours and the booting company has collected \$9,500.

A former employee of a booting company reported to a License Inspector that he was reminded at least 2 dozen times to tell customers that the credit card machine was broken and they would have to pay by cash. He also reported that his company was instructed by the District Manager of the parking lot to give customers a ten minute grace period before booting their vehicles. No one should receive a boot if they parked in the lot less than ten minutes. To this, the booting company instructed him to make sure the ten minute window was recorded on the paperwork, regardless of how long the vehicle was in the lot. The employee described that if a vehicle arrived at 8:00 p.m. and the driver returned at 8:05 p.m. with a boot on their vehicle, the paperwork indicated that the boot was not placed on the vehicle until 8:10 p.m.

A third example occurred in April, 2006 when Force Management booted an unmarked Airport police vehicle with a sign in the window stating "Airport Police on Official Business". The officers asked if they could talk to the property manager who ordered the

removal of the boot. The booting manager told the police officers that the property manager had no authority so the officers paid the fee to remove the boot. After investigating this situation, the booting manager reported to the License Inspector that he offered to remove the boot but since they had paid their fee there was nothing he could do to reimburse their money.

Complaints are received in many forms and it is not uncommon to have police involvement. In one incident, a customer went to the cash machine only to find it was broken. He then went to a cash machine across the street. When he came back to go to the video store, he saw a boot on his vehicle and called the police. The officer said it was reasonable for him to go to the other cash machine. At that point the individual was becoming hostile and the police officer ordered the boot to be removed. After it was removed the officer left the lot. Twenty minutes later the officer was called backed to the same location due to customer trouble. The same individual's vehicle was booted when the individual went into the video store, an authorized business. The employee of the booting company called his supervisor and was told that the police had no right to order removal of a boot and he directed his employee to reboot the vehicle immediately. The officer ordered the boot to be removed a second time and the police confiscated the boot and property inventoried it.

Another type of example frequently initiated by a complaint began with a verbal commitment from PSI to the License Inspector on September 12, 2006. PSI stated that they would send a refund the week of September 18, 2006. On November 21, 2006 PSI reported that they sent the check out on November 20, 2006. The check had still not been sent on January 24, 2007 so the License Inspector told PSI to send the check to the Licenses Division. PSI agreed. On January 29, 2007 PSI sent the License Inspector an email stating "I have sent you a check." As of February 20, 2007 neither the Licenses Division nor the client had received the check. The check was finally received. This is not uncommon for the License Inspector to invest numerous hours and a client to wait six months or more before refunds are finally made for illegal booting practices.

Finally the following is a chronology of an actual case.

April 8, 2006: Parking Solutions Inc (PSI) boots a vehicle and requires payment of \$99.75 for the boot to be removed. The individual told the PSI representative that he didn't think they had a right to boot his car. PSI tells him to make a written request for return of his money. The individual requests a refund in writing.

May 6, 2006: PSI responds by refusing to return any money and suggests that the individual sue them in conciliation court.

May 22, 2006: The individual files a conciliation court action against PSI. PSI is served with notice that a hearing will be held on July 31, 2006.

July 31, 2006: The individual appears at the conciliation court hearing. PSI does not appear. The judge asks the individual to present his case. He does so and is awarded

judgment in the amount of the immobilization fee plus costs. The individual emails PSI that same day asking to be paid. PSI responds stating that they will pay.

August 2006: No payment

September 6, 2006: PSI still has not paid the individual. The individual enters judgment in Hennepin County District Court. PSI is served with notice of entry of judgment.

September 18, 2006: Payment still not made. Individual obtains a writ of execution from Hennepin County Court and serves it on the CC Club, the business on whose behalf PSI provided the booting service. The individual also obtains an Order for Disclosure from the District Court which requires PSI to disclose the location of its assets.

October 11, 2006: Still not paid by PSI, the individual obtains an Order to Show Cause signed by Judge Patricia Belois. The Order to Show cause requires 1) PSI show up in District Court on November 1, 2006 and 2) explain why they failed to provide the information directed by the Order for Disclosure or a bench warrant will be issued for the arrest of PSI's CEO. That same day the individual talks to the owner on the telephone. The owner says he will pay the judgment. Payment in the amount of \$250 which included costs and interest caused by the delay is made by PSI.

Booting Analysis:

There are several reasons documenting that booting practices, the impact of booting on the availability and turnover of parking, and our responsibility and ability to provide consumer protection are ill matched for the city of Minneapolis.

1. Time Delay: Based on booting industry information, 78% of people who park in retail lots are only there for 12 minutes or less. If a vehicle is immobilized, it will remain in the parking spot for a minimum of 15 additional minutes and more likely 45 minutes as people try to figure out 1) why their vehicle was booted 2) study the signs 3) talk with the booter and 4) arrange to get financing so the boot will be removed and 5) actual removal of the boot. All of this occurs in the original parking spot. Booting a vehicle contributes to the shortage of short-term parking in private lots by prolonging the time it takes for the vehicle to leave the lot and free up the spot for another customer.

2. Alternatives: There are alternatives to booting which address both the need for turnover and accountability. Vehicles could be towed. This option is most effective for violators who park for extended periods. If the majority of vehicles leave a parking lot within 12 minutes, authorized or not, turnover among parking spaces will occur prior to the arrival of a tow truck. The majority of vehicles are booted from Free Lots which do not charge a fee. These owners are not concerned with lost revenue as parking turnover is necessary for successful business operations.

3. Predatory practices: The types of complaints and violations outlined in this report are representative of the booting practices in Minneapolis for the last 14 years. Repeated citations, fines, and suspensions have not impacted the city's ability to hold booting

companies accountable to our ordinances. Additionally, as a regulatory agency, we have no authority to enforce judgments against companies, thereby diluting our ability to meet our consumer protection responsibility.

4. City Resources: The city issues approximately 9,000 licenses annually. Nine (9) of these are vehicle immobilization licenses. Several complaints are filed each week and numerous violations have been verified against nine (9) companies. The current commitment of License Inspectors assigned to enforcing regulations has not proved effective to achieve compliance in the industry. There is an inordinate amount of time chasing complaints for such a small number of licenses.

5. Demographics: In October and December of 2006, License Inspectors studied all the vehicles booted by two companies in a two month period. 520 vehicles were booted for a total of \$52,000. 35% of the individuals whose vehicles were booted were Minneapolis residents. 50% were non-Minneapolis residents who live in Minnesota. 15% of the individuals were not from Minnesota. In a single lot in Dinkytown, 65% of the individuals booted lived outside of Minneapolis. Booting does not exist in any other Minnesota city with the exception of St. Paul which does virtually none.

Between June 1, 2006 and August 18, 2006 one booting company immobilized 51% of their total vehicles in a single lot in southeast Minneapolis. From August 19, 2006 through the end of September, 94% of the vehicles immobilized by this company resulted from this lot. This lot is located near the University of Minnesota and the influx of new college students, and their families, presents an opportunity in mid-August and early September.

6. Safety issues: Due to the confrontational nature of the business, violence occurs. Here are a couple of excerpts from Minneapolis police reports:

- a. June 2005 - When person found that their vehicle had been booted, they became enraged and threatened the booter. They then smashed out the booter's driver side window and left the area.
- b. December 2005 - As soon as the boot was removed booted party spit in booters face and pushed him. As booter confronted booted party he was grabbed by the face. The booter maced the booted party.
- c. January 2006 - Booter had just collected the money from the pay box at the parking lot he was monitoring. As he opened his vehicle door he was pushed to the ground and taken in a strong arm hold. The robbery included \$1000 and a civilian model taser.
- d. February 2006 - Booter called police because he was threatened with a gun. Booter stated that he was afraid for his life because two males were yelling at him. Suspect was arrested with a Glock .40 caliber handgun and 10 rounds of ammunition.

e. February 2006 - Booted party started yelling at booter and said "I know your face and I'll be back tomorrow and I'll kill you". Booted party attempted to get into the booter's vehicle and kneed the front passenger door. Booter got out of his vehicle and said he would mace the booted party. Booter said the booted party came within inches of him saying "You're not gonna mace me. I'll kick your ass." Booter stated that he was in fear for his safety and called police. Booted party left the area.

f. April 2006 - Booter and booted party started swearing at each other. Booter then maced booted party. A fight broke out and booted party had booter in headlock when police arrived.

g. March 2006 - Booter was taking a boot off a vehicle. As he released it, the booted party drove away driving over the booter's foot and leg. Booted party fled the scene. Booter was treated by paramedics. Booted party was booked for felony hit and run and criminal vehicular operation.

h. August 2006 - When person came back and found their vehicle booted, they went over to the booter's vehicle and poured a large cola over the booter's head and his car seat.

i. August 2006 - Booted party tried to pull the boot off and was going to drive away with the boot on. The booter parked his vehicle behind the booted party to block it and went to tighten the boot. At that time the booted party punched the booter in the mouth. When booter went to get his taser, booted party left the area and called police.

j. August, 2007: License Inspector conducted surveillance of booting procedures. Called 911 for a squad when he watched a booted party grab the booter by the neck, lift him off the ground, and started choking him.

Industry Position

Literature from a booting company in Chicago, IL (Chicago Parking Management, Inc, 2007) and Clampdown in Minneapolis have developed brochures used for marketing their services. These companies make the following claims to promote and justify their business practices.

a. Many lot owners and management firms are troubled with towing customer's cars. However, without enforcing the parking fees, customers will take advantage of parking.

The fact that almost all the lots where booting has occurred in Minneapolis are free lots dissolves this platform.

b. Immobilization companies state that towing vehicles would be less effective. Since 78% of retail lot violators illegally park for twelve minutes or less, parkers have time to park illegally and exit before a tow truck arrives.

Neither towing nor booting are not effective for short-term parkers. Illegal parkers will get away but the turnover of parking spots is preserved without intervention.

3. The vehicle is not moved which automatically increases the city's liability when a mistake is made by the tow company.

The Licenses Division has not received a complaint about a vehicle towed in error. Additionally, complaints filed about tow companies have been resolved in two or less telephone calls.

4. The violator pays the booting company right away and does not have to travel to get to the impound lot to claim their vehicle.

There is not immediate response when a vehicle is booted. A 45 minute time period before a vehicle is safe to drive does not represent a standard of convenience for customers.

Secondly, the practice in the industry stating that the credit card machines were broken and only cash would be accepted puts individuals at risk and is difficult to regulate. If a tow is justified, an inconvenience results for the individual. However, it is arguable that this provides a greater protection to consumers.

5. The income generated from booting parking violators is used to offset the cost of lot maintenance and repair.

In the past, there was nothing prohibiting booting companies from offering property owners a percentage of the booting fee. The 2005 ordinance amendments have prohibited this practice. There is no evidence that this practice has ceased, but there is no documented evidence that it is still occurring. If this premise is true, remuneration is occurring in Minneapolis.

6. Unauthorized cars tie up spaces in parking lots during the lag time waiting for a tow truck. Paying customers cannot get to businesses.

A booted vehicle remains unauthorized in a lot until the boot is removed. This has the same impact on paying customers.

Best Practices

On July 24, 2005 a bill was passed in the state of Washington with a vote from the house of 94 to 0 and 46 to 0 in the Senate.

One year later the state of Washington abolished the practice of booting. That bill stated the following:

“Immobilize” is defined as the use of a locking wheel boot that, when attached to the wheel of a vehicle, prevents the vehicle from moving without damage to the tire to which the locking wheel boot is attached. Property owners are prohibited from immobilizing any vehicle not owned by them; however, the state or any unit of local government is exempt from this prohibition. A violation of this act is a gross misdemeanor.” They also added a penalty provision to the bill – up to \$5,000 fine and/or one year confinement for a violation.

Other private property booting regulations of 19 cities similar to Minneapolis include the following:

Five (5) other cities allow booting:

1. Atlanta, Georgia - \$50 boot removal fee.
2. Chicago, Illinois - \$115 boot removal fee. Private and municipal companies authorized to boot in specific wards.
3. Denver, Colorado – Boot removal fee is the same as a parking meter violation.
4. Madison, Wisconsin - Maximum \$50 boot removal fee. The booted party may either pay the removal fee or sign a deferral agreement in which the person agrees to pay the removal fee to the parking enforcer or contest the booting.
5. Miami, Florida - Maximum \$85 boot removal fee. The city receives a \$25 administrative fee for each vehicle booted.
6. Minneapolis: Booting fee is 75% of the Impound/Towing fee. Current cap is \$103.50.

Nine (9) cities had no information in their ordinance which indicates that it is not allowed:

1. Biloxi, Mississippi
2. Dallas, Texas
3. Houston, Texas
4. Indianapolis, Indiana
5. Kansas City, Missouri
6. Knoxville, Tennessee
7. Omaha, Nebraska
8. St. Louis, Missouri.
9. San Francisco, California

Five (5) cities only allow city officials to boot for parking violations:

1. Cincinnati, Ohio
2. Detroit, Michigan

3. Pittsburg, Pennsylvania

4. Reno, Nevada

5. White Plains, New York

Recommendation:

Based on the information outlined in this report, the Licensing Division recommends that Title 13 Chapter 320 be amended to prohibit vehicle immobilization on private property in the city of Minneapolis and failure to adhere to this is defined as a criminal violation.